

TECHNICAL INFORMATION SHEET
CASE N° 11.758 RODOLFO CORREA BELISLE
FRIENDLY SETTLEMENT REPORT N° 15/10
TOTAL COMPLIANCE
(ARGENTINA)

I. SUMMARY OF THE CASE

Victim (s): Rodolfo Correa Belisle

Petitioner (s): Rodolfo Correa Belisle, Center for Legal and Social Studies (CELS), and the Center for Justice and International Law (CEJIL),

State: Argentina

Admissibility Report No.: 2/04, published on February 24, 2004

Report on Friendly Settlement Agreement No.: 15/10, published on March 16, 2010

Related Rapporteurship: N/A

Topics: Personal Freedom/Judicial guarantees/Freedom of thought and expression/right to equal protection/judicial protection/Military jurisdiction in case of human rights violations

Facts: The petitioners alleged that in April 1994 the alleged victim, a captain in the Argentine Army, was ordered to conduct a search of the Zapala Regiment, which led to the discovery of the body of Private Carrasco, who had joined the regiment a few days earlier. They added that a criminal proceeding was begun as a consequence of the death of Private Carrasco. During those proceedings, Correa Belisle was subpoenaed to testify, and he allegedly reported activities he considered illegal that had been carried out by military personnel. The petitioners alleged that because of his testimony and because the then Chief of Staff felt offended, a proceeding was initiated against Correa Belisle in the military criminal courts, in which he was sentenced to three months' imprisonment for the military misdemeanor of "showing disrespect." The petitioners alleged that the Argentine State was responsible for the arbitrary detention of Correa Belisle, as well as for the various violations of judicial guarantees and due process that occurred during the proceedings against him.

Rights Declared Admissible: The Commission declared itself competent to hear the present case and that the petition was admissible in accordance with Articles 7 (right to personal liberty), 8 (right to a fair trial), 13 (freedom of thought and expression), 24 (right to equal protection), and 25 (right to judicial protection), in relation to Articles 1.1 and 2 of the American Convention.

II. PROCEDURAL ACTIVITY

1. On August 14, 2006, the parties signed a friendly settlement agreement, which was approved by National Executive Decree No. 1257/2007, of September 18, 2007

2. On March 16, 2010, the IACHR approved the friendly settlement agreement signed by the parties, in Report No. 15/10.

III. ANALYSIS OF COMPLIANCE WITH THE CLAUSES OF THE FRIENDLY SETTLEMENT AGREEMENT

| Agreement Clause | Status of Compliance |
|---|---------------------------|
| RECOGNITION OF INTERNATIONAL RESPONSIBILITY | |
| <p>Having evaluated the facts reported in light of the conclusions of Admissibility Report No. 2/04, and considering Report No. 240544 of February 27, 2004, produced by the Office of the Auditor General Auditor of the Armed Forces, which indicated, among other things, that "...we are facing a clear situation—a system of administration of military justice that does not ensure the observance of the rights of those who become involved in criminal proceedings within that jurisdiction, and that [is] powerless to ensure an upright administration of justice," the Argentine State recognizes its international responsibility in the case for the violation of Articles 7, 8, 13, 24, and 25, in conjunction with Article 1.1, of the American Convention on Human Rights, and commits to adopt the reparation measures provided for in this legal instrument</p> | Declarative Clause |
| NON-MONETARY REPARATION MEASURES | |
| <p>1. The Argentine State apologizes to Mr. Rodolfo Correa Belisle: Based on the preceding recognition of international responsibility, the Argentine State considers it fitting to present its sincerest apologies to Mr. Rodolfo Correa Belisle for the event that occurred in 1996, during which he was subject to a military proceeding and trial that culminated with a 90-day sentence as a consequence of the application in this matter of laws that are incompatible with the required international standards.</p> <p>To that effect, and in accordance with the evaluation of the circumstances surrounding the case brought by the petitioners before the Inter-American Commission on Human Rights, and for which the competent bodies of the national State have taken suitable action, the prosecution of Rodolfo Correa Belisle has not complied with the strict observance of the rights and guarantees that international human rights law requires in this area, and thus this apology is due as part of the commitment undertaken by the national State.</p> | Declarative Clause |
| <p>2. Reform of the Administration System of Military Justice: In the working meeting held during the IACHR's 124th regular period of sessions, the government delegation reported on the state of the efforts being carried out by the Argentine State with regard to the legislative reform involving the military justice system. In that regard, it reported on the Ministry of Defense's issuance of Resolution No. 154/06, which formed a workgroup consisting of experts of the Secretariat for Human Rights and the Secretariat for Criminal Policy and Prison Affairs of the Ministry of Justice and Human Rights of the Nation, various representatives of civil society organizations, the University of Buenos</p> | Total¹ |

¹ See IACHR, Annual Report 2011, Chapter III, Section D: State of Compliance with IACHR's Recommendations, paras. 153-158.

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| <p>Aires, and members of the Armed Forces, whose work has produced agreements on the transformation of the military disciplinary system, a comprehensive review of military legislation, and the consideration of issues pertaining to the regulation of activities in the framework of peace operations and situations of war, having set a time frame of 180 days for finishing its activities. The aforementioned working group completed, before the established deadline, the preparation of a draft to reform the System of Administration of Military Justice, which was formally presented to the Minister of Defense on July 19, 2006.</p> <p>Bearing this in mind, the Argentine State is committed to work to the best of its ability to send that draft of the reform to the National Congress before the end of the current regular period of legislative sessions</p> | |
| <p>3. Publication of the Friendly Settlement Agreement:</p> <p>The Argentine State is committed to publish the text of this agreement, once and in full, in the Official Gazette of the Republic of Argentina; in the newspapers <i>Clarín</i>, <i>La Nación</i>, <i>Río Negro</i>, and <i>La Mañana del Sur</i>; as well as in the Confidential Gazette of the Army, the Public Gazette of the Army, <i>Soldados</i> magazine, and in the <i>Tiempo Militar</i> newspaper, once this agreement is duly approved in accordance with the provisions of Point III of this instrument and approved by the Inter-American Commission on Human Rights, in line with the provisions of Article 49 of the American Convention on Human Rights.</p> | <p>Total²</p> |
| <p>PETITIONER'S STATEMENT WITH RESPECT TO MONETARY REPARATIONS</p> | |
| <p>Bearing in mind that the petitioner has filed a lawsuit for damages and prejudicial consequences against the State of Argentina in a case underway, called "CORREA BELISLE, RODOLFO LUIS c/ESTADO NACIONAL ARGENTINO - ESTADO MAYOR GENERAL DEL EJERCITO S/PROCESO DE CONOCIMIENTO," File No. 8752/98, First Instance National Court of the Federal Administrative Contentious Court No. 1, Secretariat No. 1, the petitioner states that he declines any monetary claim in an international venue since this makes up part of a complete and total reparation that he is seeking in the aforementioned case before the courts of the Republic of Argentina.</p> | <p>Declarative Clause</p> |

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The IACHR declared total compliance with the case and ceased monitoring of the friendly settlement report, in Annual Report 2015.³

V. INDIVIDUAL AND STRUCATURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case

- The State publically acknowledged its responsibility for violation of the rights enshrined in Articles 7, 8, 13, 24, and 25 of the American Convention on Human Rights.

² See IACHR, Annual Report 2015, Chapter II, Section D: State of Compliance with IACHR's Recommendations, paras. 127-137.

³ See IACHR, Annual Report 2015, Chapter II, Section D: State of Compliance with IACHR's Recommendations, paras. 127-137.

- The State published the agreement on the Ministry of Defense's web page, and in the newspapers *Clarín*, *Río Negro*, and *La Mañana Neuquén*, which published an information table about the friendly settlement agreement.

B. Structural outcomes of the case:

- The Code of Military Justice was repealed in November 2007, and a new system adopted by which crimes committed by members of the military will be prosecuted through ordinary courts. The new law eliminates the military jurisdiction and abolishes the death penalty. It also establishes a new disciplinary structure that abolishes discriminatory penalties related to homosexuality and criminalizes sexual harassment within the armed forces as an aggravated crime.